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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of

Federal-State Joint Board on  
Universal Service

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY  
CC Docket No. 96-45

**COMMENTS OF VERIZON<sup>1</sup> ON RURAL TASK FORCE  
RECOMMENDATION TO THE FEDERAL-STATE JOINT BOARD**

The Rural Task Force Recommendation holds the promise of solving the final major piece of the universal service puzzle. More information is needed to evaluate whether the Recommendation actually meets that promise. Before final approval by the Joint Board and the Commission, the proposals must be fleshed out to be sure that they will not have unintended consequences.

Moreover, while the broad outlines of the proposals appear reasonable, the Joint Board should not endorse any suggestions that go beyond the mandate of the Task Force. In particular, a decision that is intended only to relate to the rural fund should not expand the scope of services covered by universal service in general, or change the assessment mechanism for recovery of all federal funds. To the extent the Joint Board does consider these diversions from the central issue here, it should reject them as unsupported as a matter of law and sound public policy.

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<sup>1</sup> The Verizon telephone companies ("Verizon") are the local exchange carriers affiliated with Verizon Communications Inc., and are listed in an attachment.

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**I. The Recommendation Requires Additional Review  
Both Before and After Adoption**

The basic fund size proposals appear on their face to be a reasonable accommodation of the competing goals of providing sufficient support to maintain affordable universal service for customers of rural carriers, and the need to limit the growth in the size of a federal universal service fund that is paid by all consumers of interstate telecommunications services. In particular, the concept of maintaining a cap in the fund size, but allowing that cap to grow over time appears to honor both goals.

Before approval of this proposal by the Joint Board, however, more detail is required. The Recommendation estimates that the initial impact of the proposal is \$118 million, but nowhere in this record is the calculation of that figure detailed. Moreover, the proposal fails to do what the Commission did prior to final approval of a fund mechanism for non-rural carriers – calculate the impact on the service territory of individual carriers. The Joint Board and ultimately the Commission must evaluate how well this plan balances the need for sufficient funding with the need to avoid overburdening the consumers who provide the funding source for universal service. It is difficult to determine how such an evaluation can be made if the Recommendation does not specify how much individual areas will receive and exactly how much that will cost over time. Moreover, such detailed analysis would also allow for a quantitative review of the methods and procedures of such calculations to assure that there are no anomalies that would need to be corrected prior to final adoption.

Even less is known about the impact of the indexed growth in the allowable fund size. No estimates are given on the impact of the growth in the cap in future years. The existing cap, which the current proposal would modify, has been recognized to provide “a

reasonable balance between the Commission's mandate to ensure sufficient support for universal service and the need to combat wasteful spending." *Allenco v. FCC*, 201 F. 3d 608, 620 (5<sup>th</sup> Cir. 2000) ("Allenco"). It is uncertain whether the new proposed indexed cap will adequately serve the same function.

As a result, the Joint Board should reject the proposed five year term of the plan, and instead reevaluate the actual impact of the fund after three years. This will allow the Joint Board two years worth of data on the impact of the increases in the cap. In setting the non-rural universal service funding methods, the Commission recognized that the funding mechanism must "evolve as technology and other conditions change." *Federal-State Joint Board on Universal Service*, 14 FCC Rcd 20156, ¶ 28 (1999). As a result, the Commission indicated that it would review non-rural funding in general after the rural funding is put in place and it also committed to launch further proceedings to evaluate how its cost model should evolve. *Id.* The Joint Board should require similar oversight here, and reevaluate the impact of the rural plan after three years.

## **II. The Recommendation Should Not Alter The Definition of Universal Service**

The Recommendation includes proposals that go beyond what the Joint Board should consider in this proceeding. In particular, the Recommendation argues for network architecture which "supports 28.8 kilobits per second modem access." Recommendation at 23. Such a change is inconsistent with existing universal service policy and this rural-specific recommendation is the wrong proceeding to consider such a policy change.

The Commission has adopted voice grade access as the basic service eligible for universal service support. In ruling that "voice grade access, and not high speed data

transmission, is the appropriate goal of universal service policies,” the Commission expressed its concern that “supporting an overly expansive definition of core services could adversely affect all consumers by increasing the expense of the universal service program and, thus, increasing the basic cost of telecommunications services for all.” *Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, ¶ 64 (1997). Indeed, the Commission has rejected efforts to increase the required bandwidth, even for voice grade service, because raising the standard could leave “a substantial number of otherwise eligible carriers . . . unable to qualify for universal service support.” *Federal-State Joint Board on Universal Service*, 13 FCC Rcd 5318, ¶ 16 (1997).<sup>2</sup>

Defining the service in terms of modem speed does not change that analysis. Upgrading network architecture which supports 28.8 kilobits per second does nothing to support voice grade access and cannot be justified on that basis. The Commission plans to convene the Joint Board within the next year to consider expanding the definition – but in that context the Joint Board will be looking at the impact on all customers, not just those served by rural carriers. Moreover, any effort to expand the definition of supported services must include a rigorous analysis which shows the cost of such expansion and demonstrates that such additional costs are consistent with sound public policy and the Act. As the Joint Board, the Commission and Appellate courts have understood in decisions to date, “excess subsidization in some cases may detract from universal service

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<sup>2</sup> The Recommendation attempts to circumvent this problem by suggesting that while the rural fund be expanded to support higher modem speeds, carriers that do not provide these speeds should not be denied eligible telecommunications carrier status. But this accommodation is inconsistent with the Act, which requires that all carriers eligible to receive universal service support must “offer the services that are supported” by the federal fund. 47 U.S.C. § 214(e)(1)(A).

by causing rates unnecessarily to rise, thereby pricing some consumers out of the market.” *Allenco* at 620.

For this same reason, the Joint Board should reject the recommendation that even if the definition of universal service is not expanded, the support in the fund “should be sized so that investment in rural infrastructure will be permitted to grow.”

Recommendation at 23. Universal service support is intended to support access to a specific basket of services, and the fund may not lawfully be sized to accommodate services not included in that basket.

While the Recommendation attempts to cast the issue as one of rural parity with urban areas, such characterization cannot obviate the need to determine whether data services should be supported under the Act. Indeed, in rural areas, with typically longer loop lengths, carriers have employed loading coils and other equipment to improve the delivery of voice grade service. Such deployments may reduce the speed at which data may be transmitted. As a result, upgrading the requirement for universal service may have the perverse effect of undermining service quality in rural areas for basic voice service – even before taking into considerations the impact on universal service that the increased cost of federally-supported network upgrades could cause.

Moreover, there is no showing in the Recommendation that a modem speed of 28.8 kilobits per second will increase Internet access for rural areas. Indeed, a new Department of Commerce Study indicates that there have already been “dramatic shifts” in Internet usage – resulting in “significant gains in Internet access” for rural areas as compared to central cities and urban areas. “Falling Through the Net: Toward Digital Inclusion,” U.S. Department of Commerce Report on Americans’ Access to Technology

Tools (October 2000) at 4-5. In fact, rural Internet penetration rates now exceed those in central cities. *Id.* The trend in these statistics suggests that in this respect, the Recommendation is attempting to solve a problem that does not exist.

It is unclear what linkage, if any, there is in the Recommendation's funding proposal and its proposal concerning advanced services. It may be that it is not until the Joint Board has several years of data in hand that it can evaluate whether the proposed cap index is sufficient to fund merely the existing pool of universal services, or whether the index growth is too expansive and actually allows recovery sufficient to fund an expanded pool of services. The Joint Board should look closely at this question in the three-year review check-point proposed by Verizon.

### **III. Contribution Should Be Based On All Carriers Interstate End-User Revenues**

The Recommendation (at 8, fn 12) suggests that universal service support contributions should be assessed on the broadest possible base. The Recommendation is correct to the extent it means that all providers of interstate telecommunications services should be subject to universal service assessment.

In particular, in a separate proceeding, the Commission is considering how universal service obligations would apply to cable operators that provide telecommunications services. *Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities*, Notice of Inquiry, GEN Dkt. No. 00-185, ¶ 20 (rel. Sept. 28, 2000). To the extent the Commission identifies these and other carriers providing interstate telecommunications services, they must, under the requirements of the Act, be included in the assessment base for universal service. *See* 47 U.S.C. § 254(d)

(“[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis”).

The Recommendation is incorrect, however, in its claim that the “law does not distinguish between interstate and intrastate revenues but requires all carriers to contribute.” Recommendation at 8, fn 12. In fact, the Fifth Circuit Court of Appeals has made clear that the jurisdictional limitations of section 2(b) of the Act deny the FCC authority to assess intrastate revenues or in any way include intrastate revenues in the assessment base for a federal fund:

“If the point of § 2(b) was to protect state authority over intrastate service, allowing the FCC to assess contributions based on intrastate revenues could certainly affect carriers’ business decisions on how much intrastate service to provide or what kind it can afford to provide. This federal influence over intrastate services is precisely the type of intervention that § 2(b) is designed to prevent.

*Texas Office of Public Utility Counsel v. FCC*, 183 F3d 393, 447, fn 101 (5<sup>th</sup> Cir. 1999).

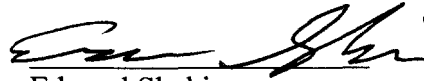
The law on this point could not be clearer, and intrastate revenues must remain off limits as a source for federal funding.

### **Conclusion**

While the core of the Recommendation appears reasonable, the Joint Board should obtain more detail prior to approval. It should also modify the Recommendation in several significant respects: 1) a reevaluation should be conducted after three years; 2) there should be no expansion in the services included in universal service support; and 3)

the assessment method should be based on only interstate end-user revenues, but should include all carriers that provide interstate services.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Edward Shakin', written over a horizontal line.

Edward Shakin

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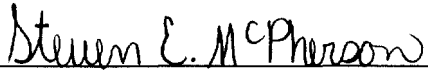
## THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of Minnesota, Inc. d/b/a Verizon Minnesota  
Contel of the South, Inc. d/b/a Verizon Mid-States  
GTE Alaska Incorporated d/b/a Verizon Alaska  
GTE Arkansas Incorporated d/b/a Verizon Arkansas  
GTE Midwest Incorporated d/b/a Verizon Midwest  
GTE Southwest Incorporated d/b/a Verizon Southwest  
The Micronesian Telecommunications Corporation  
Verizon California Inc.  
Verizon Delaware Inc.  
Verizon Florida Inc.  
Verizon Hawaii Inc.  
Verizon Maryland Inc.  
Verizon New England Inc.  
Verizon New Jersey Inc.  
Verizon New York Inc.  
Verizon North Inc.  
Verizon Northwest Inc.  
Verizon Pennsylvania Inc.  
Verizon South Inc.  
Verizon Virginia Inc.  
Verizon Washington, DC Inc.  
Verizon West Coast Inc.  
Verizon West Virginia Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 3<sup>rd</sup> day of November, 2000, copies of the foregoing  
“Comments of Verizon on Rural Task Force Recommendation to the Federal-State Joint  
Board” were sent by first class mail, postage prepaid, to the parties on the attached list.

  
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